

***United States Court of Appeals
for the Second Circuit***



**APPELLEE'S
APPENDIX**

Docket No.

77-1078

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA

*B
P/s*
Appellee

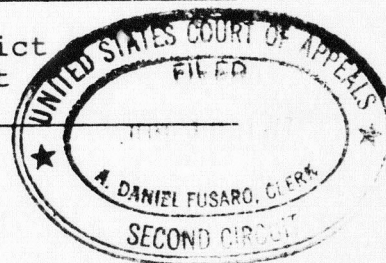
v.

PAULINE A. STEBBINS

Appellant

Appeal from the United States District
Court for the District of Vermont

APPENDIX FOR THE UNITED STATES



GEORGE W.F. COOK
United States Attorney

JEROME F. O'NEILL
JEROME J. NIEDERMEIER
Assistant U.S. Attorneys
District of Vermont

PAGINATION AS IN ORIGINAL COPY

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210 2 1006

STEBBINS, PAULINE A.

09 08 76 63 1

X

II. KEY DATES & INTERVALS		OFFENSES CHARGED		ORIGINAL COUNTS		BAIL • RELEASE	
18:1623		False statements to Grand Jury		1 1		☐ AMT ☐ Detained ☐ Set ☒ \$10,000 ☐ Date ☐ Bail Not Made ☐ Status Changed (See Docket)	
ARREST or U.S. Custody Began Summons Served First Appearance		INDICTMENT ☒ High Risk Date 9-8-76 Indict. Waived In Charging District Superseding Indict/Info 11-9-76		ARRAIGNMENT 9-17-76 11-19-76 1st Plea Final Plea		TRIAL Trial Set For 11-15-76 Voir Dire Trial Began Trial Ended	
				SUPERSEDING COUNTS		SENTENCE Disposition of Charges ☐ Convicted ☐ Acquitted ☐ Dismissed ☐ On Government's Motion	

2
5 1976

O'Neill

X

Stebbins & Bradley, Esqs. (John J. Long, Jr., Esq.)
 35 So. Main St. P.O. Box 128
 White River Jct., VT. 05001 Tel. #295-3454
 (Rec'd 5/2, 1-25-77, 11-20-77, 11-20-77, 11-20-77, 11-20-77)

- 1 Sept. 8 Filed Indictment.
 " " " Record of Grand Jurors concurring.
 " 9 Issued Summons returnable 9-17-76, 9:30 AM, Rutland.
 " 17 In open Court before Judge Holden. Jerome F. O'Neill,
 Asst. U.S. Attorney; John J. Long, Jr., Esq.,
 Attorney for Defendant.
 " " Defendant present in Court with her Attorney, John
 J. Long, Jr., Esq., for arraignment.
 " " Court makes inquiries of Defendant.
 " " Defendant waived reading of the indictment, was
 arraigned and plead not guilty to the one
 count indictment.
 " " Mr. O'Neill, for Government, requests bail be set
 in the amount of \$10,000. signed personal
 recognizance.
 " " ORDERED: Bail set at \$10,000. signed personal
 recognizance.
 " " Cause continued until Sept. 27, 1976 at 9:30 A.M.
 for hearing on any pretrial motions.

DATE		76-63-1	IV. PROCEEDINGS (continued)	PAGE TWO	V. EXCLUDABLE DELAY			
		(DOCUMENT NO.)	U.S.A vs. STEBBINS		Interval Section 1 (a)	Start Date End Date (b)	LV Code (c)	Total Days (d)
1976	Sept. 17		Statements made to Court by Mr. Long re: objection to fingerprinting of defendant, followed by Mr. O'Neill in opposition.					
"	"		ORDERED: overnment allowed to fingerprint the defendant.					
2	"		Filed appearance Bond of Pauline A. Stebbins					
3	" 27		Filed Defendant's Motion for Bill of Particulars under Rule 7f and Memorandum of Law.	3		9-27-76		E
4	"		" Defendant's Motion for Disclosure of Grand Jury Testimony, under Rule 6e and Memorandum of Law.					
5	"		" Defendant's Motion for discovery under Rule 16 and Memorandum of Law.					
6	Sept. 29		Filed Government's Opposition to Motion for a Bill of Particulars and Memorandum of Points and Authorities.					
7	"		" Government's Opposition to Motion for Disclosure of Grand Jury Testimony under Rule 6 (e) and Memorandum of Points and Authorities.					
8	"		" Governments Response to Motion for Discovery Under Rule 16 and Memorandum of Points of Authorities					
9	"		" Governments Certificate of Service.					
"	"		In open Court before Judge Holden. Jerome F. O'Neill, Asst. U. S. Attorney; Daniel J. Connolly, Esq. and John J. Long, Jr., Esq., for Defendant.					
"	"		Defendant present in Court with her attorneys for hearing on various motions.					
"	"		Hearing on Defendant's Motion for Bill of Particulars					
"	"		Statements made to Court by Mr. Connolly, followed by Mr. O'Neill in opposition.					
"	"		ORDERED: Motion for Bill of Particulars in Paragraph 5 is granted. Said information to be supplied by Government by Oc.t 6, 1976.					
"	"		Hearing on Defendants Motion for Discovery Under Rule 16.					
"	"		Statements made to Court by Mr. Connolly, followed by Mr. O'Neill in opposition.					
"	"		Decision reserved until Government has presented material it intends to rely upon to indicate danger of harassment or pressure.					
"	"		Hearing on Defendant's Motion for Disclosure of Grand Jury Testimony.					
"	"		Statements made to Court by Mr. Connolly.					
"	"		ORDERED: Motion denied pro forma until Government has complied with Bill of Particulars, with leave of Defendant to renew his Motion for Disclosure of Grand Jury minutes, if not satisfied.					
"	"		Oral Motion by Defendant made for permission to take OVER					

DATE	76-63-1 (Document No.)	PROCEEDINGS (continued)	V. EXCLUS (a)	(b)
1976 Sept. 29		the deposition of Frank Fucci. ORDERED: Decision reserved until Defendant files written statements setting forth reasons for taking said deposition under Rule 15 (a). Motion to be filed by Defendant in writing on or before Oct. 6, 1976. Government given until Oct. 13, 1976, to comply with Defendant's Oral Motion to take deposition.		
" "		Government states it is ready for trial.		
" "		Defendant states it should be ready for trial by mid-November.		
10 Oct. 6		Trial date scheduled by the Court for November 15, 1976. Filed defendant's motion to take deposition, and memorandum.	3	
11 Oct 8		Filed Interlocutory Order -- Defendant's motion for identification of witnesses is denied. Material supplied by government for protective inspection is sealed by court. Mailed copy to attorneys.	3	10-8
12 " "		Filed sealed envelope containing material submitted by Govt.		
13 " "		" Govt's Bill of Particulars.		
14 " 12		Filed Government's opposition to motion to take deposition and memorandum of points and authorities.		
15 Oct 15		Filed Defendant's motion to compel Govt to comply with Court's order regarding provision of Bill of Particulars.		
16 Oct. 18		Filed response of the United States to defendant's motion to compel Government to comply with Court's order regarding provision of Bill of Particulars.		
Oct. 28		In open Court before Judge Holden. No appearance for Government; John J. Long, Jr., Esq., for Defendant.		
17 " "		Filed Waiver of Defendant's Presence.		
" "		Court states it had a conversation with the U.S. Attorney's Office before coming into Court, and that the Attorney for the Government is in trial in Burlington, and that it had neglected to assign an attorney to this matter for this hearing.		
" "		The Court states it will decide the motions on Memoranda of Law already filed, and will hear oral arguments of Mr. Long.		
" "		HEARING ON DEFENDANT'S MOTION TO COMPEL GOVERNMENT TO COMPLY WITH COURT'S ORDER REGARDING PROVISION OF BILL OF PARTICULARS.		
" "		Statements made to Court by Mr. Long.		
" "		ORDERED: Motion granted. Government given 15 days within to file Bill of Particulars indicating in what respect the alleged perjured testimony by the defendant impeded the investigation of the matter under consideration by the Grand Jury in regard to the indictment under investigation. (over)		

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

Cr. 76-63-1 U.S.A. vs. PAULINE A. STEBBINS.

DATE 1976		PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(Document No.)	(a)	(b)	(c)	(d)
Oct.	28	HEARING ON DEFENDANT'S MOTION TO TAKE DEPOSITION: Statements made to Court by Mr. Long.				
"	"	ORDERED: Motion denied.				
"	"	ORAL MOTION by Mr. Long for two week extension of time.				
"	"	ORDERED: Trial tentatively set for November 15, 1976, postponed to a date no later than Dec. 1, 1976.				
"	"	Filed Memorandum and Interlocutory order--deft's motion to take deposition of Frank Fucci is denied; Govt. is directed to provide a further bill of particulars to supply these deficiencies on or before 11-12-76; trial date previously sch. for 11-15-76 is resch. for week of 11-29-76.				
18		Mailed copy to attorneys.				
19	Nov. 8	Filed 2 Govt's Subpoena to Testify returned served.				
20	" "	" 9 Govt's Subpoena to Testify returned not served.				
21	" 9	" Superseding Indictment.				
"	"	" Record of Grand Jurors concurring.				
Nov.	19	In open Court before Judge Holden. John Hughes, Jr., Asst. U. S. Attorney; John J. Long, Esq., attor- ney for defendant.				
"	"	Defendant present in Court with her attorney, John J. Long, Esq., for arraignment on superseding indictment.				
"	"	Court makes inquiry of defendant.				
"	"	Defendant waived reading of superseding indictment, was arraigned and plead not guilty to the one count of the superseding indictment.				
"	"	Trial date scheduled for November 29, 1976, at 9:30A.M.				
"	"	Hearing scheduled for November 26, 1976, at 11:00 for hearing on any motions filed.				
22	" 24	Filed four subpoena to Produce document or object, returned served.				
23	" "	Filed four subpoena to testify, returned served.				
"	26	In open Court before Judge Holden. Jerome O'Neill, Asst. U.S. attorney; John J. Long, Jr., Esq. and Daniel J. Connolly, Esq., attorneys for Deft.				
24	" "	Filed Defts Motion Protective Order re: prosecuting Atty.				
"	"	Hearing on Defendant's Motion for Protective Order regarding prosecuting attorney.				
"	"	Statements made to Court by Mr. Long, followed by Mr. O'Neill.				
"	"	ORDERED: Motion denied.				
"	"	Hearing on Defendant's Motion to Produce Rough Notes Under F.R.Cr.P., Rule 16 and 18 USC §3500.				
"	"	Statements made to Court by Mr. Connolly, followed by Mr. O'Neill.				
"	"	ORDERED: Motion denied pro forma.				
"	"	Hearing on Defendant's Motion for disclosure of Grand Jury Testimony.				
"	"	Statements made to Court by Mr. Connolly, followed by Mr. O'Neill.				
"	"	Mr. O'Neill states he will have the transcript of the grand jury testimony of Mr. Fucci to turn over to defense counsel on Monday, Nov. 29, 1976.				
25	" "	Filed Motion Produce Rough Notes under Rule 16 & 18, \$8500				
26	AO-257	Filed Deft's Motion for Disclosure of Grand Jury Testimony				

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U. S. vs

PAULINE A. STEBBINS

76-63

Yr. | Dc

V. EXCLUD
(a) | (b)

DATE 1976		PROCEEDINGS (continued)	
		(Document No.)	
Nov.	26	Other grand jury testimony to be turned over to defense counsel on the morning of the day that the witness is to testify.	
"	"	ORDERED: Witnesses to be sequestered during trial. Government allowed to have one agent present in Court during the course of the trial.	
27	"	Filed Governments Memorandum with Respect to 18 USC §3500 and the Destruction of Agent Notes.	
"	29	A trial by jury was begun before Judge Holden. Jerome F. O'Neill, Asst. U. S. Attorney; Daniel J. Connolly, Esq. and John J. Long, Jr., Esq., attorneys for defendant.	
28	"	Filed Defendant's Motion for Voir Dire.	
29	"	Filed Defendant's Motion to Charge.	
30	"	Filed Request of United States for Questions to be asked of Jurors.	
"	"	In chambers. Counsel present.	
"	"	A discussion was held between the Court and Counsel.	
"	"	In Court. Jury panel & Counsel present.	
"	"	A voir dire of Juror Patrick V. Farrow, out of the hearing of the jury panel, ensued by the Court and counsel.	
"	"	A jury was impaneled by the Clerk.	
"	"	ORDERED: that two alternates be drawn and the following were impaneled by the Clerk: Mrs. Martha Rideout. Mrs. Elizabeth White.	
"	"	The oath to Petit Jurors in Criminal cases was administered to the jury.	
"	"	In Court. Jury not present. Counsel present.	
"	"	Statements made to Court by Mr. Connolly re: presentation of grand jury testimony of Pauline A. Stebbins to the Jury; followed by Mr. O'Neill in opposition.	
"	"	ORDERED: That passages of pages 6, 7, 9, 19, 20, 30 and 31, and the reading of the minutes to the grand jury be excluded from the testimony when read to the petit jury.	
"	"	Hearing held re: voir dire investigatory notes of Agents Hess and Burke.	
"	"	The following witnesses, sworn by Clerk, were examined on behalf of the Government: David E. Hess, Ronald R. DeCoign.	
"	"	Mr. Donnolly requests the Court's ruling in this matter be delayed until Agents Axton and Burke are able to appear in Court to conclude this hearing, concurred in by Mr. O'Neill.	
"	"	Statements made to Court by Mr. O'Neill re: hearing on materiality of foreman of the grand jury proceedings be had without the petit jury present, followed by Mr. Connolly in opposition.	
"	"	ORDERED: Testimony of foreman of the grand jury be allowed to be presented to the petit jury. (over)	

DATE 1976		PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(Document No.)	(a)	(b)	(c)	(d)
Nov.	29	Jury present.				
"	"	Opening statements made to Jury by Mr. O'Neill.				
"	"	Opening statements reserved by defendant.				
"	"	The following witnesses, sworn by Clerk, were examined for the Government: William W. Stone, Patricia Ann Derrick.				
"	30	Trial resumed.				
"	"	In chambers. Counsel present.				
"	"	A discussion was held between the Court and Counsel.				
"	"	Motion made by Mr. O'Neill to excise certain portions of transcript of the grand jury testimony of Agent Albert O. Axton; followed by Mr. Connolly in opposition.				
"	"	ORDERED: Grand jury testimony of Agent Axton, lines 19-25, page 3, excised until after Agent Axton testifies in this hearing.				
"	"	In Court. Jury not present. Counsel present.				
"	"	Further hearing held re: voir dire investigatory notes of Agents Hess, Axton, Burke.				
"	"	The following witnesses, sworn by Clerk, were examined for the Government: Edward R. Burke, Albert O. Axton.				
"	"	Defendant's motion to have rough notes denied. Lines 19-25, page 3, grand jury testimony of Albert O. Axton, excised.				
"	"	In Court. Jury present.				
"	"	The following witnesses, sworn by Clerk, were examined for the Government: Frank R. Fucci, Janice Allen.				
Dec.	1	Trial resumed.				
"	"	ORDERED: Due to a death in the family of Juror No. 11, Charles O. Tuomisto, Mr. Tumisto excused from sitting on this jury and alternate juror Mrs. Martha Rideout substituted.				
"	"	The following witnesses, sworn by Clerk, were examined for the Government: Rose Marie Fucci, Albert O. Axton.				
"	"	In Court. Jury excused. Counsel present.				
"	"	Statements made to Court by Mr. Connolly re: 3500 material grand jury testimony transcript of Albert O. Axton; followed by Mr. O'Neill in opposition.				
"	"	ORDERED: Excised material grand jury testimony of Mr. Axton be turned over to defendant.				
"	"	ORDERED: Interview of Pauline A. Stebbins by Agent Axton, Government's Exhibit 18, to be turned over to defendant.				
"	"	The following witnesses, sworn by Clerk, were examined for the Government: John E. Hess, Edward R. Burke.				
31	"	Filed Government's Request to Charge and Trial Memo.				
32	"	Filed Defendant's Motion for Acquittal.				
33	"	Filed Defendant's Motion for Acquittal (Prima Facie Case.				
		Over				

DATE 1976		PROCEEDINGS (continued)	
		(Document No.)	
34	Dec. 1	Filed Memorandum of United States with Respect to Materiality of Questions and the Clarity of Questions.	
"	"	The following witnesses, sworn by Clerk, were examined for the Government: Ronald R. DeCoigne, James Francis Tighe, David T. Hall, Frank Mahady.	
"	"	Defendant rests.	
"	"	In Court. Jury excused.	
"	"	Motion made by Mr. Connolly for directed verdict of acquittal and Motion for directed verdict of acquittal, Prima Facie Case; followed by Mr. O'Neill in opposition.	
"	"	ORDERED: Defendant's Motion for directed verdict of acquittal, denied.	
"	"	Defendant's Motion for directed verdict of acquittal, prima facie case, denied.	
"	"	In Court. Jury present.	
"	"	Opening statements made to jury by Mr. Long.	
"	"	The following witnesses, sworn by Clerk, were examined for the Defendant: Lanore C. Kelley, Hubert Stebbins.	
35	" 2	Trial resumed. Filed Deft's Additional Requests to Charge.	
"	"	The following witnesses, sworn by Clerk, were examined for the Defendant: Hubert Stebbins, resumed the stand, Pauline A. Stebbins.	
"	"	Defendant rests.	
"	"	The following witnesses, called in rebuttal by the Government, were sworn: Albert O. Axton, Judith E. Woodard, William Batstone, Edward R. Burke.	
"	"	Government rests. Jury excused from the courtroom.	
"	"	Motion renewed by Defendant for verdict of acquittal	
"	"	ORDERED: Motion denied.	
"	"	In chambers. Counsel present.	
"	"	A request to charge conference was held.	
"	"	In Court. Jury present.	
"	"	Closing arguments made to jury by Mr. O'Neill, followed by Mr. Connolly; further followed by Mr. O'Neill.	
36	" 3	Filed three (3) Government subpoenas to testify, returned served.	
"	"	Trial resumed.	
"	"	ORDERED: Mr. Lane Vargas be appointed Foreman of the jury.	
"	"	At 9:45 A.M. the Court commenced its charge to the jury, concluding at 10:35 A.M.	
"	"	Harry B. McDonald, U. S. Marshal, was sworn by the Clerk, was officer in charge of the jury in criminal cases.	
"	"	ORDERED: That alternate juror, Mrs. Elizabeth White, be excused from further consideration of the case.	
"	"	At 10:40 A.M., the jury retired to deliberate the case.	

DATE 1976	76-63-1 (Document No.)	PROCEEDINGS (continued)	V. EXCLUDABLE DEL		
			(a)	(b)	(c)
Dec. 3		At 2:00 P.M. the jury came into Court to have the testimony of Agents Axton and Burke read to them, after receiving same, they again retired to deliberate the case at 2:45 P.M.			
" "		In chambers. Counsel present.			
" "		A discussion was held between the Court and Counsel re: question from jury.			
" "		At 3:20 P.M. the jury came into Court re: written question from jury, at which time they again retired to deliberate the case.			
" "		In chambers. Counsel present.			
" "		A discussion was held between the Court and Counsel re: question from jury.			
" "		At 4:55 P.M. the jury came into Court re: written question from the jury, at which time the Court re-read part of the Judge's Charge in regard to the jury's inquiry, at which time the jury retired for further deliberation.			
" "		At 6:15 P.M. the jury came into Court and reported a verdict of guilty, at which time the jury was polled.			
" "		The jury was excused. In Court. Counsel and defendant present.			
" "		ORDERED: That a presentence investigation and report be made by the probation officer.			
" "		ORDERED: That bail as previously set, be continued.			
37. " 20		Filed three(3) Gov't.'s subpoena to testify returned served.			
1977					
38. Jan. 7		Filed Notice of readiness of pre-sentence report.			
" 14		In open Court before Judge Holden. Jerome Niedermeier, Asst. U. S. Attorney; Daniel J. Connolly, Esq., Attorney for Defendant.			
" "		Defendant present in Court with her Attorney, Daniel J. Connolly, Esq., for sentencing.			
" "		Court makes inquiry of Counsel and defendant as to the accuracy of the pre-sentence report. Counsel and defendant reply that there are no corrections.			
" "		Court makes inquiries of counsel and defendant as to why sentence should not be imposed at this time. Both counsel and defendant reply that there is no reason why sentencing should not be imposed.			
" "		Statements made to Court by Mr. Connolly re: mitigation of sentence.			
" "		Court makes inquiry of defendant in regard to sentencing. Defendant replies that she has no statements to make.			
" "		Statements made to Court by Mr. Niedermeier re: mitigation of sentence.			
39. " "		Filed Judgment and Commitment Order - - Defendant sentence to one year; and on the condition that the defendant be confined in a custodial institution for a period of one month. The			

DATE	PROCEEDINGS (continued)
(Document No.)	
1977 Jan. 14	execution of the remainder of the sentence of imprisonment is suspended and the defendant placed on probation for a period of two years to commence upon the defendant's release from confinement. The defendant is further sentenced to pay a fine of two thousand five hundred dollars. A condition of probation is that the defendant shall pay said fine during the first year probation following imposition of sentence. ORDERED: Sentence of confinement will commence on Feb. 14, 1977, at 10:00 A.M., at which time defendant will surrender herself to the U.S. Marshal at the Federal Building, Burlington, VT.
" "	Court explains defendant's right of appeal.
" "	ORDERED: That bail be continued as previously set
	during period for stay of confinement of
	imprisonment.
40. Jan. 19	Amended Filed/Judgment and Probation/Commitment Order --
	defendant is hereby committed to the custody
	of the Attorney General or his authorized
	representative for imprisonment for a
	period of one year; and on the condition
	that the defendant be confined in a custodial
	institution for a period of one month. The
	execution of the remainder of the sentence
	of imprisonment is suspended and the defen-
	dant placed on probation for a period of two
	years to commence upon the defendant's
	release from confinement. The defendant is
	further sentenced to pay a fine of \$ 2,500.00.
	A condition of probation is that defendant
	shall pay said fine during the first year
	of probation following imposition of sentence.
	ORDERED: sentence of confinement will
	commence on February 14, 1977, at 10:00 AM,
	at which time defendant will surrender her-
	self to the U. S. Marshal, Federal Building,
	Burlington, Vermont.
41 Jan. 20	Filed Notice of Appeal. Mailed copy to Ass't.
	U.S. Atty. (O'Neill), Stebbins & Bradley,
	Esqs., Court Reporter, Judge Holden & Clerk,
	U.S. Court of Appeals for the Second Circuit.

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

Cr. 76-63-1 USA vs. Stebbins

	DATE	PROCEEDINGS (continued)	V. EXCLUDABLE D		
			(a)	(b)	(c)
	1977	(Document No.)			
43	Feb. 7	Filed Appellant's Motion to Enlarge Time (that brief be filed within 25 days of date transcript is filed.)			
44	" "	" Amended Transcript Order.			
45	" 14	" Appellant's Motion to Enlarge Time to file trans.			
46	" 25	" Scheduling Order -- Transcript to be filed with Clerk of Dist. Ct. on or before 4-5-77; record to be filed on or before 3-3-77.			
47	Mar. 8	" Transcript of Testimony held Nov. 29, 30; Dec. 1, 2 and 3, 1976.			
48	" "	" Transcript of Arraignment Hearing held Sept. 17, 1976.			
49	" "	" Transcript of Pre-Trial Motions held 9-29-76.			
50	" "	" " Hearing on Deft's Motions held 10-28-76.			
51	" "	" Transcript of Hearing on Arraignment on Superseding Indictment held 11-19-76.			
52	" "	" Transcript of Hearing held 11-26-76 on Motions.			
	" "	Mailed Supplemental Record on Appeal to Clerk, U. S. Court of Appeals for the Second Circuit, N.Y.C. Attys. notified.			

District
Form No.

INFORMATION AND WARRANT

STATE OF VERMONT,

Windsor

County, ss }

To the DISTRICT COURT OF VERMONT, Unit No. 6 Windsor Circuit:

On December 27, 1972, Paul F. Hudson, State's Attorney

in and for said County, comes into open Court, in his proper person, and on his oath of office, and gives
said Court to understand that William Paul Stebbins

of White River Jct in the County of Windsor

at White River Jct in said County of Windsor

on to wit, the 22nd day of December, 1972 did, then and

there, ~~purposely and knowingly~~ ^{recklessly} cause ~~serious~~ ^{serious} bodily injury to another,

to wit, Robert Clark Hall, with a deadly weapon in violation of

13 VSA 102h (A) (2)

1023 (A) (2)

contrary to the form of the statute, in such case made and provided, and against the peace and dignity of the State.

This information was exhibited to the Court this 27th day of Dec, 1972

State's Attorney

Judge - Clerk

STATE OF VERMONT,

Windsor

County, ss }

To any Sheriff-Deputy Sheriff-Constable-State Police Officer-Fish and
Game Warden-Motor Vehicle Inspector in the State or any Police Officer

of the State GREETINGS:

BY THE AUTHORITY OF THE STATE OF VERMONT, you are hereby commanded to apprehend the body of the said
William Paul Stebbins

and have him forthwith before the aforesaid District
Court of Vermont at the District Court room in the District Court Building

at White River Jct in the County aforesaid, that he may answer to the foregoing in-
formation, and be further dealt with according to law.

Given under my hand at Hartford this 27th day of

Dec, 1972

Judge - Clerk

INFORMATION AND WARRANT

Docket Number 764-73 WLC

DISTRICT COURT OF VERMONT

Unit No. 6 Windsor Circuit

STATE OF VERMONT

v.

William Paul Stebbins
Residence White River Jct. Vt.
Date of birth 1-13-47 Age 25
Place of birth HANDLER, N.H.
Occupation Unemployed
Op. Lic. No. _____
Offense: Felony ☐ Misdemeanor ☐
Simple Assault
Date 12-22-72 Place White River Jct.
Arrest date _____
Place of arrest White River Jct. Vt.
Officer Hartford Police Dept.
Court Windsor District 5-22-1973
Plea Not Guilty

Proceedings

Verdict Guilty
Convicted of: Felony ☐ Misdemeanor ☐
Sentence 500 fine +
8-12 mths & CCC
Outsp. Prob. UFO
Date of sentence 5-22, 1973
Fine \$ 500.00
With alternate sentence of _____ days
Paid in full May 23, 1973
Mittimus issued _____
Committed _____
Conviction report _____
Pros. Officer _____
Att'y for Resp. F. F. F.
Assigned: Yes ☐ No ☒

DO NOT WRITE INSIDE SQUARE BELOW

OFFICER'S CERTIFICATE

STATE OF VERMONT } At Hartford
Windsor ss. } In said County, this 22
day of December, 1973
{ without warrant
by virtue of this precept, I arrested the body of the
within named William Paul Stebbins
read the same in his hearing, and have him in Court as
I am within commanded. I traveled _____ miles to place
of arrest, and transported him _____ miles to Court -
Lockup - Correctional Facility -
I brought him into Court on the _____ day of
_____, 19____, and transported him
_____ miles.
Attest, Alfred J. Gamm
Sheriff, Deputy Sheriff, Police Officer, Constable,
State Police Officer, Fish and Game Warden,
Deputy Probation Officer, Motor Vehicle Inspector.

BILLS OF COSTS

GRAND JUROR FEES:

Nol. pros. waiving examination, or plea of guilty (1.50) _____
Trial by Court (2.00); by jury (2.50) _____
_____ miles travel (.10) one way; if more than one case
tried at same time (.05) per mile one way each case _____

JURORS:

_____ days (\$15.00) _____
_____ miles (.08) each way _____
meals \$ _____ (if credit not extended) _____

WITNESSES:

_____ days (\$10.00) _____
_____ miles (.08) each way _____

Costs To Be
Paid By State

Total

Judge



VERMONT
CONVICTION REPORT



Docket No. 784-73MCP

For Dept. Use

-5731/73-

Vermont

(COUNTY) (DISTRICT) COURT

Located at Hartford, Vermont

RESPONDENT Stebbins William Paul
(last name) (first) (middle)

Aliases Social Security #

Residence White River Jct. Vermont
(street) (city or town) (state)

Date of birth 1-13-47 Age 25 Place of birth: Hanover, N.H.

Respondent's Operator's Lic. No. State:

Was there an accident? ☐ Yes ☐ No Injury Accident? Property Damage Accident?

Date of Offense 12-22-72 Time: Place: White River Jct.

Date of Arrest 5-22-73 Time: Place: Hartford

Arresting Officer Alfonso Guerra Department: Hartford PD

OFFENSE: (Note original charge if amended) Agg. Assault Amended to Simple Assault

Felony ☐ Misd. ☒

TRIAL DATA Prosecuting Officer: Paul F. Hudson Judge: Ellison

Date of Arraignment: 5-22-73 Plea: nolo

Trial by Jury? Court?

DISPOSITION Sentence: Fine: \$ 500.00

8 to 12 months CDC Costs: \$

Case Appealed: no

Sentence Suspended? yes Date of Conviction: 5-22-73

Disposition of Prisoner: probation Plea: nolo Verdict: guilty

REMARKS Fine paid on 5-22-73

Signed PDerrick (Judge) (Clerk)

DO NOT WRITE IN THIS SPACE

Copy to:	Date
M. V. Dept.	
Dept. of Inst.	

FUCCI, FUCCI & FUCCI
ATTORNEYS AT LAW
FONDA BLDG
WHITE RIVER JUNCTION
VERMONT 05501

FRANK R. FUCCI
LOUIS A. FUCCI, SR.
ROSE M. FUCCI

March 19, 1974

TELEPHONE
295-7131
7132
AREA CODE 802

Mr. Ronald R. DeCaigne
Internal Revenue Service
P.O. Box 130
Burlington, Vermont 05401

Re: William Paul Stebbins

Dear Mr. DeCaigne:

On May 22, 1972, I was paid the sum of \$10,000.00 in cash by the mother of William Paul Stebbins, Pauline Stebbins, for legal services as to a criminal matter pending in the Windsor District Court against her son.

Out of said sum, I paid the sum of \$5,000.00 to Attorney, Frank G. Mahady, White River Junction, Vermont, as a court cost fee.

Yours very truly,

FUCCI, FUCCI & FUCCI

By *Frank R. Fucci*

FRF:JA

BEST COPY AVAILABLE

1 Q. Can we have your name, please?

2 A. Ronald R. DeCoigne.

3 Q. And how are you employed, Mr. DeCoigne?

4 A. I'm employed with the Internal Revenue Service on, as
5 an Internal Revenue Agent.

6 Q. Now, directing your attention to September 18, 1973, did you
7 have occasion to be present on an interview that was
8 conducted of Mrs. PAULINE STEBBINS in WHITE RIVER
9 JUNCTION, Vermont?

10 A. Yes.

11 Q. And who else was present during that interview of Mrs.
12 STEBBINS?

13 A. Special Agent EDWARD BURKE and later interviewed her
14 son, PAUL STEBBINS, - WILLIAM PAUL STEBBINS.

15 Q. Now did you take any notes at all during the course of the
16 interview?

17 A. No, I did not.

18 Q. Did you observe whether or not Special Agent BURKE took any
19 notes?

20 A. Yes, he did.

21 Q. And following the interview, was a Memorandum of Contact
22 as it is known, prepared reflecting this conversation
23 with Mrs. STEBBINS?

24 A. Yes, it was.

25 Q. And would you indicate to us how that was prepared?

26 A. After the interview was completed, Special Agent BURKE
and myself sat down together, went over his notes of

1 the interview and prepared a summary of what we had
2 discussed with Mrs. STEBBINS and her son . We then
3 dictated the Memorandum into the recording machine and
4 gave it to a clerk for typing. It was typed. Special
5 Agent BURKE and myself both reviewed it and agreed
6 that the contents correctly reflected what we had dis-
7 cussed. Then we signed it.

8 Q. So this was - - the notes came to the two of you where
9 you had worked on them together. They were dictated,
10 it was typed up, and - typed up into a Memorandum of
11 Contact, and you both signed the Memorandum of Contact
12 with -

13 A. That's correct.

14 Q. Now, do you know what happened to the notes that Agent
15 Burke took, thereafter?

16 A. No, I don't.

17 Q. Did you - - you, yourself, did not take any notes, is that
18 correct?

19 A. No, I didn't.

20 Q. Was there anything unusual about the procedures followed
21 in this instance in terms of the interview itself,
22 or the preparation of the Memorandum of Contact?

23 A. No, I don't believe so.

24 MR. O'NEILL: That's all we have, Your
25 Honor.

26 CROSS EXAMINATION BY MR. LONG:

27 Q. Mr. DeCoigne, how long have you worked for the Internal

OUT

10:00 a.m. WITH/THE PRESENCE OF THE JURY)

WITHOUT THE JURY

MR. O'NEILL: We would call Agent Edward R. Burke.

E-D-W-A-R-D R. B-U-R-K-E, having been called as a witness by the Government, was duly sworn by the Clerk and testified on his oath as follows:

DIRECT EXAMINATION BY MR. O'NEILL:

Q. Could we have your name, sir?

A. Edward R. Burke.

Q. How are you employed?

A. Special Agent with the Intelligence Division of the Internal Revenue Service.

Q. And how long have you been so employed?

A. Seven years.

Q. Now as of September 1973, where were you assigned at that time?

A. I was assigned to the Burlington District Office in Burlington, Vermont.

Q. Now, did you have occasion on September 18, 1973, to conduct an interview of Mrs. Pauline Stebbins?

A. Yes, I did, sir.

Q. And would you indicate to us where the interview took place?

A. It took place in the Polka Dot Restaurant in White River Junction, Vermont.

- 1 Q. Who was present on that occasion?
- 2 A. Myself, Internal Revenue Agent Ronald DeCOIGNE and
- 3 Mrs. Pauline STEBBINS.
- 4 Q. And who was asking the questions?
- 5 A. I was, sir.
- 6 Q. And approximately how long did the interview last?
- 7 A. Approximately forty-five minutes.
- 8 Q. Now, was that interview totally devoted to questioning of
- 9 Mrs. Stebbins or was there any other questioning of
- 10 any other individual over that period of time?
- 11 A. Another individual also, sir.
- 12 Q. Did that come after the interview had begun that the second
- 13 person joined the interview, so to speak?
- 14 A. That's correct.
- 15 Q. Now, approximately how long was it that Mrs. Stebbins
- 16 herself was being asked questions?
- 17 A. Approximately ten to fifteen minutes.
- 18 Q. Now, during the course of the interview, - who was the
- 19 second individual who was interviewed?
- 20 A. Her son, WILLIAM PAUL STEBBINS.
- 21 Q. All right, now I don't mean to belabor this but would you
- 22 indicate to us just basically how it was that you first
- 23 interviewed Mrs. Stebbins and then the circumstances
- 24 under which you began the interview with her son and
- 25 then why she was present?
- 26 A. We entered the Polka Dot Restaurant, we identified
- 27 ourselves, as Internal Revenue agents to interview

1 - excuse me, as INTERNAL Revenue agents to Mrs.
2 Pauline Stebbins was when we commenced the interview
3 and approximately ten or fifteen minutes later, her
4 son ENTERed the restaurant at which time, Mrs. Stebbins
5 indicated that her son was present and we called him
6 over to the table and commenced our interview of
7 WILLIAM PAUL STEBBINS.

8 Q. Now, you say you commenced the interview of William Paul
9 STEBBINS, the interview was principally of William
10 Paul STEBBINS thereafter, is that correct?

11 A. That's correct.

12 Q. However, did Mrs. Stebbins also have occasion to interject
13 or make some statements during the period of time that
14 William Stebbins was being interviewed?

15 A. That's correct.

16 Q. So, just so the Court and Counsel and myself are fully
17 clear on this, you have first of all, an interview of
18 Mrs. Stebbins, an interview of William Stebbins follow-
19 ing it with some statements made by Mrs. Stebbins
20 during the William Stebbins interview, is that a fair
21 characterization?

22 A. Yes, sir, that is correct.

23 Q. Now, who was the, what was the format of the interview of
24 Mrs. Stebbins? How was it conducted as best as you
25 can describe it?

26 A. An informal - I would describe it as an informal confer-
27 ence.

1 Q. And how would you describe it in terms of questions and
2 answers, who was asking the questions and things of
3 this nature?

4 A. I was asking the questions and responses were given by
5 Mrs. Pauline Stebbins or William Paul Stebbins.

6 Q. Now, was Mr. DeCoigne taking any notes, as far as you could
7 observe?

8 A. No, sir, not that I recall.

9 Q. Did you take any notes yourself?

10 A. Yes, I did.

11 Q. And would you describe for us what type of notes you were
12 taking? In other words, how would you describe the
13 notes that you took. I'll have you use your own
14 language for that, please?

15 A. I would record statements made by Mrs. Pauline Stebbins
16 or William Paul Stebbins that may relate to the income
17 tax liability of William Paul Stebbins at some future
18 date.

19 Q. Now, did, were you writing down quotations or were you
20 writing down ideas, summaries, - how would you describe
21 what you wrote down in your notes?

22 A. Generally paraphrasing what was stated.

23 Q. Did you take down everything that was said?

24 A. No, sir, I did not.

25 Q. Did you at any time show your notes to Mrs. Stebbins to
26 look at and go over?

27 A. No, sir, I did not.

1 Q. When you finished the interviews did you at some point in
2 time thereafter, prepare a Memorandum of Contact with
3 respect to the interviews of Mrs. Stebbins and William
4 Paul Stebbins?

5 A. Yes, sir, I did.

6 Q. Well, would you indicate to us how those were prepared?

7 A. I returned to the office, reviewed my rough notes of
8 the original conference, I styled or drafted an outline
9 of my notes and based on the outline, I dictated the
10 final memorandum into a cassette tape recorder and I
11 gave the tape to the group secretary and it was later
12 transcribed by the group secretary at the Intelligence
13 Division in Burlington, Vermont.

14 Q. Now what did you do when you received back the transcrip-
15 tion of your dictation from the secretary?

16 A. I compared the transcription, the typed transcription
17 with my original notes and the outline format, noting
18 particularly paying attention to dates and amounts and
19 then I made any appropriate changes necessary and I
20 destroyed my notes, my original notes.

21 Q. Now how did the original notes compare in terms with the
22 content of them with the content of the file Memorandum
23 of Contact? In other words, was there any material
24 omitted from anything from your notes as compared to
25 the Memorandum of Contact?

26 A. Generally not, sir, no.

27 THE COURT: I understand you gave the, your

1 original notes to the secretary along with the dictated
2 material?

3 A. No, Your Honor I did not. I just gave her the tape
4 cassette on which I dictated my memorandum. I retain
5 my notes after she transcribed. The tape cassette, I
6 compared the final typed form as provided me by the
7 secretary with my notes and the brief or the rough
8 outline and then I destroyed my notes. At no time
9 did she - did I give her, or did she receive my notes.

10 Q. Now, what was the role, if any, of the Internal Agent
11 DeCOIGNE in the preparation of your Memorandum of Con-
12 tact?

13 A. He assisted me in the preparation and actually the
14 memorandum was in conjunction with Ronald De COIGNE.

15 Q. Now, would you indicate to us as best you can with, how
16 Mr. DeCOIGNE assisted in the preparation?

17 A. A. Well, he was there when I actually, well, he was
18 there when I actually took the rough notes with Mrs.
19 Pauline STEBBINS and William Paul STEBBINS. He was
20 there when I committed it to a rough outline form and
21 I can't recall if he was there when I dictated it.

22 Q. I believe that is all we have of this witness at this time,
23 Your Honor.

24 CROSS EXAMINATION BY MR. LONG:

25 Q. Mr. Burke, my name is LONG and I am representing Mrs.
26 STEBBINS and I have a few questions I would like to
27 ask you about, concerning the interview about which you

1 the last question, it seems to me. Otherwise the witness is
2 being cross-examined with respect to what someone else has
3 said and whether it's fair. I'm not clear whether Mr. LONG is
4 relying just on the last statement. The first part is only
5 a pre-empt to help the witness. If he is, fine, but otherwise
6 I think it is a very improper question.

7 THE COURT: Objection to the form of the
8 question is sustained.

9 Q. Thank you. Let me break that question up into its compon-
10 ents. Was Mr. DeCoigne's representation that you may
11 have taken some verbatim statements, a correct repre-
12 sentation of fact?

13 A. His use of the word "may" be correct. I may have taken
14 verbatim statements.

15 Q. Okay, did you in fact, take any verbatim statements?

16 A. Usually if I take a verbatim statement, I'll put it in
17 quotes and I don't particularly recall seeing quotes
18 in my Memorandum of Contact. I would say that at this
19 point, I don't recall taking specific verbatim state-
20 ments.

21 Q. Is it possible that you may have?

22 A. I can only answer that, if I did, I usually put it in
23 quotes, when I take the exact words used by someone.
24 Otherwise, I would paraphrase it, the substance of
25 what they advise.

26 Q. Would you please take that?

27 A. Yes, sir.

1 thank you.

2 EXAMINATION BY THE COURT:

3 Q. I take it that you were investigating the tax liability
4 of Mr. William Stebbins at this particular time, that
5 was you were focusing on that?

6 A. Yes, sir, that's correct, Your Honor.

7 Q. How about Mrs. Stebbins, was she, - she wasn't involved in
8 that aspect of your investigation?

9 A. No, sir, she was not the subject of my investigation.

10 THE COURT: That's all.

11 (The witness withdrew from the witness stand)

12 MR. O'NEILL: The Government would call
13 Mr. Albert Axton.

14 A-L-B-E-R-T Q. A-X-T-O-N, having been called as
15 a witness by the Government, was duly
16 sworn by the Clerk and testified on his
17 oath as follows:

18 DIRECT EXAMINATION BY MR. O'NEILL:

19 Q. Can we have your name, sir?

20 A. Albert O. Axton.

21 Q. How are you employed, Mr. Axton?

22 A. Special Agent of the F.B.I.

23 Q. Mr. Axton, directing your attention to February, excuse
24 me, January 7, 1976, did you have an occasion to conduct
25 an interview of Mrs. Pauline Stebbins on that day?

26 A. Yes, I did.

27 Q. Where did the interview take place?

1 A. In the Polka Dot Restaurant.

2 Q. And who was present?

3 A. Another agent, John HESS.

4 Q. And would you indicate to us first of all, did you go
5 there to interview Mrs. Stebbins?

6 A. No, I did not.

7 Q. What was your purpose in going there?

8 A. To locate her son, William Stebbins.

9 Q. During your course of trying to locate William Stebbins,
10 did you have occasion to have a conversation which
11 might be termed an interview with Mrs. Pauline Stebbins
12 thereafter?

13 A. Yes, I did.

14 Q. And approximately how long did this last?

15 A. About fifteen minutes.

16 Q. And did you take any notes of this conversation or inter-
17 view?

18 A. No, I did not.

19 Q. And did you thereafter, reduce the, part of what at least
20 what was said, to a Federal Bureau of Investigation
21 Form 302?

22 A. Yes, I did.

23 Q. And what type of information is on the 302, not in terms
24 of literal words, but in terms of, is this an exact
25 quote, is it the substance? How would you describe it
26 in your own terms?

27 A. This is the substance of what was said.

- 1 Q. And who was asking the questions while you were there at
- 2 the restaurant?
- 3 A. I was.
- 4 Q. And what is your customary procedure with respect to taking
- 5 notes?
- 6 A. Generally, it depends on the type of interview being
- 7 conducted. In other words, an interview involving
- 8 dates and figures to be reduced possibly to notes or
- 9 to work sheets. If it is a simple interview, I do
- 10 not record notes.
- 11 Q. Agent AXTON, just for the record, you are an accountant,
- 12 are you not?
- 13 A. That's correct.
- 14 Q. And after you had completed the interview, was there,
- 15 how, - would you indicate to us how you went about
- 16 preparing, or how you ended up in your hands with a
- 17 final Form 302?
- 18 A. I rough-draft almost all of my interviews. By "rough
- 19 draft," I mean I type them. They are then re-typed by
- 20 a stenographer in ALBANY, New York.
- 21 Q. Now just so that we understand what you mean by "rough
- 22 draft", is this a rough draft of your recollection, or
- 23 a rough draft of the final Form 302?
- 24 A. This is a rough draft of the final form.
- 25 Q. And what do you do when you receive back the Form 302 after
- 26 it's been typed by the typist?
- 27 A. I receive both my original rough draft and the finished

1 copy. Compare both of them . If the, if it's exact,
2 I destroy the rough draft.

3 Q. Would it be fair to describe the rough draft as simply a
4 device which enables the typist to have something to
5 type from to prepare the final 302?

6 A. Yes, it's the same thing as if I was dictating directly
7 to the Steno.

8 Q. Were the procedures followed here in accordance with your
9 normal course of procedures?

10 A. Yes.

11 MR. O'NEILL: That's all we have, Your
12 Honor.

13 CROSS EXAMINATION BY MR. CONNOLLY:

14 Q. Agent AXTON, I'm DANIEL CONNOLLY, one of the counsel for
15 Mrs. Stebbins. Is there any question in your mind
16 whether you prepared a rough draft, a typed rough
17 draft of this interview in January of this year?

18 A. No question about it.

19 Q. All right, there was one prepared?

20 A. Yes.

21 Q. And it was forwarded to ALBANY?

22 A. Yes.

23 Q. And it was returned to you?

24 A. Yes.

25 Q. And it has since been destroyed?

26 A. Yes.

27 Q. All right. Now, what is your rough draft typed on? On

- 1 would this be office work?
- 2 A. Could be both.
- 3 Q. Do you have any recollection which it was?
- 4 A. I have not.
- 5 Q. Did you, or do you retain a day log of the hours that you
- 6 spend on any particular investigation?
- 7 A. No, I do not.
- 8 Q. But there were other matters that you pursued during that
- 9 day?
- 10 A. Yes.
- 11 Q. On the following day, was it a regular work day for you?
- 12 A. Yes.
- 13 Q. So there were other matters pursued between the time you
- 14 spoke with Mrs. Stebbins and the time you reduced your
- 15 recollection to writing?
- 16 A. Yes.
- 17 Q. Was the rough draft reviewed by Agent HESS before it was
- 18 sent to ALBANY?
- 19 A. Yes.
- 20 Q. Do you retain any of the rough drafts that are used to
- 21 prepare the final 302 reports?
- 22 A. Not once I have proof-read them and initialed them.
- 23 Q. So, once you have proof-read the final and are satisfied
- 24 with that and have initialed it, you destroy the rough
- 25 draft, is that correct?
- 26 A. Right.
- 27 Q. And you retain none?

1 A. I did not.

2 Q. That's standard operating procedure to destroy the rough
3 drafts?

4 A. Yes.

5 Q. In fact, there's an instruction in the Manual that you
6 operate under that requires that, isn't that so?

7 A. Well, I assume so.

8 Q. Do you know of any agents you have any contact with that
9 retain their rough drafts or rough notes?

10 A. Not to my knowledge.

11 Q. So, it's fairly standard procedure for the F.B.I. agents
12 to destroy those?

13 A. Destroy rough drafts, not notes.

14 Q. Not the final, I mean the rough drafts.

15 A. Rough draft.

16 Q. Okay.

17 MR. CONNOLLY: Might we have this marked
18 as Defendant's Exhibit "B" for identification?

19 Q. Now, Mr. AXTON, I show you a document marked Plaintiff's
20 Exhibit "B" and ask you if you can identify that docu-
21 ment?

22 A. Yes, I can.

23 Q. Defendant's Exhibit. And, what is Defendant's Exhibit "B"?

24 A. An interview conducted of Mrs. Pauline Stebbins by
25 myself and JOHN HESS.

26 Q. Now, this is the interview we've been referring to?

27 A. Yes.

1 Here, in HARRIS I will admit that the
2 Court then found that the agent's testimony helped the defend-
3 ant, obviously, the defendant would not want to impeach him.
4 Therefore, there was harmless error in that a case. In this
5 case we don't have that kind of harmless error situation.

6 The question of how the sanctions can be
7 imposed, Your Honor, rather than have this raised after the
8 agents have testified, we felt that it was best to bring this
9 to the Court's attention now, so that we can avoid any possible
10 prejudice to the defendant.

11 As to the alternates, there's only one
12 alternative I can propose to the Court since we cannot in
13 fact, review potentially discoverable material, potential
14 BRADY material, let's put it that way, and the Court cannot
15 exercise its powers in determining whether it is admissible.
16 The only penalty would be to exclude any testimony by these
17 four agents.

18 THE COURT: Well, the Court, - there is
19 no showing, first of all at this stage, that there is any BRADY
20 material involved and the Court won't impose the drastic sanc-
21 tion that you have suggested under Rule 16 for failure to
22 disclose under Rule 16-A. If it should appear that the destruc-
23 tion of the original notes might have contained BRADY material
24 or that the defendant was prejudiced by the destruction of the
25 notes, the Court will allow you to renew your motion.

26 MR. CONNOLLY: Your Honor, I presume we
27 have preserved on the record sufficiently our grounds?

1 Junction. Windsor Circuit.

2 Q. Now, when was it that you were first approached about being
3 retained or being hired to represent WILLIAM STEBBINS
4 in the case? - Approximately.

5 A. Sometime, - I believe this all happened in 1933 in
6 the Spring.

7 Q. 1973?

8 A. '73, I'm sorry, yes. Now, I don't recall exactly when
9 I was retained to represent this boy.

10 Q. Just so that perhaps we have a couple of fixed dates with
11 which to work, was the incident itself alleged to have
12 taken place in December of 1972?

13 A. It was several months before, yes.

14 Q. And was the case disposed of by means of a plea on May 22,
15 1972, or 1973?

16 A. It was.

17 Q. So you were retained some time prior to May 22d, 1973 and
18 obviously, after the incident?

19 A. Yes, I was.

20 Q. And would you indicate to us who it was who retained you?

21 A. I had many, many conversations with Mrs. Stebbins con-
22 cerning her son. In the first instance, the father had
23 mentioned the case to me and I would say that I was re-
24 tained from then on. That's about the time that this
25 matter happened.

26 Q. Now, Mr. FUCCI, when you say you were retained, were you
27 formally retained or how would you describe it? I

would like you to use your own terms to describe as to how you entered the case yourself.

A. Because of my friendship with them, I think it was an informal retainer.

Q. Did it start out as some type of a request for you to look into the matter?

A. Yes, that's right.

Q. And did you have occasion to see the Stebbins on a regular basis?

A. I did not see Stebbins until, as I recall, -

Q. I'm sorry, I didn't, perhaps I didn't phrase the question clearly enough. Did you have occasion to see Mr. and Mrs. Stebbins on a relatively routine basis?

A. Oh, I saw her quite often.

Q. Would this be at the restaurant there?

A. At the restaurant. That's right.

Q. Now how was the fee which you were to receive for the, your representation in this case, determined?

A. I made a flat charge of ten thousand dollars.

Q. And when was the, when did you indicate to whomever was indicated the fee would be ten thousand dollars? In relation, if not by the specific date, in relation to let's say May 22d, 1973?

A. It was before then.

Q. Could you give us a rough idea of how long?

A. No, I don't recall the exact time.

Q. Well, I guess what I am saying is, might it have been, let's

say the day before, or a couple of months before.

What's your -

A. Oh no, it was long before.

Q. So quite a while before the 22d.

A. May 22d of '73.

Q. And how or who did you make the arrangements with the amount of the fee with?

A. I, as I recall, I told Mrs. Stebbins that Billy's fee would be ten thousand dollars.

Q. Now, what was the fee to cover? What was the -

A. My services.

Q. Your services in connection with this case?

A. That's correct.

Q. Now, where was it, - was there a point in time when you thereafter received the fee?

A. Yes.

Q. And where was it that you received it?

A. I received the fee in the POLKA DOT Restaurant.

Q. Now when was this in relation to the day that Mr. WILLIAM PAUL STEBBINS entered his plea of guilty?

A. It was on the same day.

Q. And who did you receive the fee from?

A. On that morning, I had met Mrs. Stebbins and her son Billy and we sat in the booth together. And I stated to Billy, "Have you raised my fee?" And he said, "Yes." Mrs. Stebbins then left the booth, went behind the, as I recall, the cash register and brought a bag to me.

- 1 Q. And what type of a bag was it?
- 2 A. Oh, an ordinary grocery paper sack. A small one.
- 3 Q. And do you know what was in the sack?
- 4 A. At that time I didn't look in the sack, no.
- 5 Q. And what did you do with the sack?
- 6 A. I took the sack to my office and I called my secretary
- 7 into my office and asked her to count out a five
- 8 thousand dollar fee.
- 9 Q. And what were the denominations of the money?
- 10 A. I didn't see the money at that time.
- 11 Q. Was there a later point in time when you did?
- 12 A. Yes.
- 13 Q. What's your best recollection as to the denominations?
- 14 A. I'd like to go back if I may.
- 15 Q. Please do so.
- 16 A. During my investigation I was unable to plea bargain
- 17 with the State's Attorney and he insisted the boy be
- 18 tried for a felony and after that, I obtained some
- 19 evidence that showed me it was not a felony, it was
- 20 nothing more than a misdemeanor. Now before that
- 21 point, I realized the matter might have to go to trial
- 22 and because of my age and my physical condition, I
- 23 retained a young lawyer to assist me to try the matter
- 24 and I agreed with him that we would split the fee.
- 25 Q. And who was the person you retained to assist you?
- 26 A. Frank MAHADY of White River Junction, Vermont.
- 27 Q. Okay, now I think my last question was and perhaps this is

1 what you were leading up to, the denominations. Do
2 you have that question in mind?

3 A. So after lunch, I obtained the bag from the office,
4 went to Mr. Mahady's office and that's the first time
5 that I saw the money. Now, as I recall, I believe
6 they were in ten's and twenty's. I didn't count the
7 money. He did.

8 Q. And do you recall whether the money was loose or whether
9 it was strapped. How would you describe it in that
10 respect?

11 A. They were banded. Small bank bands around it.

12 Q. Do you recall anything about the bank bands?

13 A. Yes, I recall that some of the bank bands were printed
14 in Cleveland. Some bank in Cleveland, Ohio.

15 Q. Now, let's go back so that we can try and get a time se-
16 quence here. I think you indicated that you received
17 the money on the morning that WILLIAM STEBBINS went to
18 Court and changed his plea, is that right?

19 A. Yes, that's right.

20 Q. Okay now, what time was that, that he went to court?

21 A. We were to be in court at 9:00 o'clock, or 9:30, so I
22 would say just a little after 9:00.

23 Q. And you received the money as you have described it?

24 A. That's right.

25 Q. And where did you go with the money again, please?

26 A. I went to my office.

27 Q. Now, is there any question in your mind that the money was

- 1 handed to you by Mrs. Stebbins?
- 2 A. No, there is no question in my mind.
- 3 Q. Now, what type of record did you make of receipt of the
- 4 money after getting it back to the office?
- 5 A. I, after I went to court and entered my plea, I came
- 6 back to my office, I met my sister-in-law and I told
- 7 her this was Billy Stebbins' fee, to bank the money.
- 8 Q. Now, just so that we know, what is your sister-in-law's
- 9 name?
- 10 A. What's that?
- 11 Q. What is your sister-in-law's name?
- 12 A. Rose M. FUCCI, she's an attorney.
- 13 Q. She's also a member of the firm?
- 14 A. Yes.
- 15 Q. What did you thereafter do with your share of the money?
- 16 A. A day or two later, my share of the money was used to
- 17 pay off my mortgage. The balance of my mortgage on my
- 18 home, which was five thousand dollars.
- 19 Q. Now, what did you do with the remaining five thousand dol-
- 20 lars?
- 21 A. The remaining five thousand dollars was given to Frank
- 22 Mahady.
- 23 Q. Now when was this given to Mr. Mahady, in relation to the
- 24 events which we have discussed so far?
- 25 A. That money was given to, - on the day of the hearing
- 26 when we entered the plea, that afternoon.
- 27 Q. Now, I think maybe we understand when you say "that afternoon"

- 1 now the plea was in the morning, right?
- 2 A. May 22d, 1973, that's right.
- 3 Q. The plea itself was in the morning, now what took place in
- 4 the afternoon?
- 5 A. Then that afternoon, after lunch, I would say 1:30,
- 6 I went to Frank Mahady's office and gave him his fee.
- 7 Q. And how much was it that you gave to Mr. Mahady?
- 8 A. Mr. Mahady got five thousand dollars.
- 9 Q. And how was this delivered to him, how was this five
- 10 thousand dollars? In other words, what was it? Was
- 11 it a money order, or what was it?
- 12 A. It was in the same sack.
- 13 Q. In other words, it was cash also?
- 14 A. That's right.
- 15 Q. Now I think you indicated you went to court on behalf of
- 16 William Stebbins on that particular day, is that cor-
- 17 rect?
- 18 A. (No response).
- 19 Q. And what was the disposition of the charge against Mr.
- 20 Stebbins on that occasion?
- 21 A. I had plea-bargained with the State's Attorney and his
- 22 recommendation was that he be sentenced to from eight
- 23 to twelve months at the Correctional Facility, sentence
- 24 suspended upon payment of a fine of five hundred dol-
- 25 lars. And the Court accepted the State's recommendation.
- 26 Q. Now, Mr. Stebbins entered a plea of "nolo", did he not?
- 27 A. I believe it was "nolo" at the time, yes.

- 1 Q. And do you recall who it was who was in court on that
2 particular occasion representing the State of Vermont?
3 A. Michael SHEEHAN the Deputy State's Attorney.
4 Q. Now, do you recall whether Mr. SHEEHAN was willing to ac-
5 tually make the reduction himself?
6 A. Now, what's that?
7 Q. Do you recall whether, - let me back up. Perhaps I should
8 ask a preliminary question. Mr. WILLIAM STEBBINS was
9 charged with aggravated assault, is that not right?
10 A. That's right.
11 Q. Now, what might be described as a lesser included offense
12 or a step below that is, simple assault, is that right?
13 A. Yes.
14 Q. Mr. Stebbins ultimately pled to "simple assault"?
15 A. Simple assault, that's correct.
16 Q. So, in other words if the charge was reduced from aggra-
17 vated assault to simple assault, is that right?
18 A. That's right.
19 Q. And was, - at the time that you were in court on May 22d,
20 was Mr. SHEEHAN willing to make the reduction himself
21 or did someone else make the reduction of the charge?
22 A. Well, my plea bargaining was with the State's Attorney.
23 Q. In otherwords, Mr. HUDSON?
24 A. Mr. HUDSON. Paul HUDSON. And, as I recall, he stated
25 Q. to the Court what our arrangement was. What the plea
26 bargaining was and what he was to recommend.
27 Q. I guess I'm a little unclear on this, Mr. FUCCI. Who was

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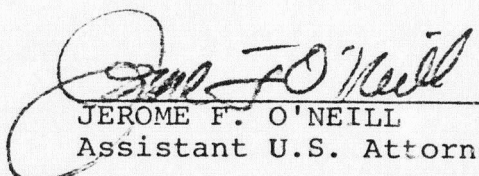
v.

Docket No. 77-1078

PAULINE A. STEBBINS

CERTIFICATE OF SERVICE

I hereby certify that I have this 6th day of June, 1977, mailed two copies of the attached Brief and Appendix, and a copy of the Motion for Leave to File Appendix, along with a copy of this Certificate of Service to counsel for Appellant, John Long, Esq., White River Junction, Vermont, postage prepaid.


JEROME F. O'NEILL
Assistant U.S. Attorney